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08 UNITED STATES DISTRICT COURT
09 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 CORINNA MOSES,

12 Plaintiff,

13 Case No. C12-1964-JCC-MAT

14 v.

15 REPORT AND RECOMMENDATION

16 KING COUNTY, *et al.*,

17 Defendants.

18 This is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff, through counsel,
19 filed her complaint on November 8, 2012. Plaintiff alleged in her complaint that she had been
20 denied adequate medical care as she gave birth at the King County Correctional Facility in July
21 2011, in violation of her rights under the Eighth and Fourteenth Amendments. (Dkt. 1.)
22 Defendants filed an answer to the complaint and the undersigned thereafter entered an Order
setting pretrial deadlines. (Dkts. 7 and 8.) On March 18, 2013, the parties filed an agreed
motion to stay the proceedings for three months due to the incapacity of plaintiff's medical

01 expert. (Dkt. 12.) The undersigned granted the motion and entered an Order staying the case
02 until June 21, 2013. (Dkt. 14.)

03 On June 20, 2013, the parties filed a stipulated motion requesting that the case be stayed
04 for an additional three months due to the continued incapacity of the plaintiff's medical expert.
05 (Dkt. 16.) The undersigned again granted the motion and entered an Order staying the case
06 until September 21, 2013. (Dkt. 18.) Pursuant to that Order, plaintiff's counsel was to update
07 the Court, not later than September 21, 2013, on the medical prognosis of plaintiff's expert
08 witness and his ability to participate in the case. Plaintiff's counsel failed to submit the
09 required update and, thus, on October 10, 2013, the undersigned issued an Order directing
10 plaintiff to show cause not later than October 21, 2013 why the previously entered stay should
11 not be lifted and a new pretrial schedule be established. (Dkt. 19.)

12 On October 17, 2013, plaintiff's counsel filed a motion seeking to withdraw from the
13 case. (Dkt. 20.) Counsel explained therein that the case was not longer economically viable
14 because of the withdrawal from the case of plaintiff's medical expert who had been
15 catastrophically injured in a car accident earlier this year. (*Id.*) Counsel indicated that they
16 had served a copy of their motion to withdraw on plaintiff and that plaintiff had been advised
17 that her failure to prosecute her claims could result in dismissal of this case. (*Id.*) The motion
18 to withdraw was noted on the Court's calendar for consideration on November 1, 2013. (*Id.*)

19 Plaintiff has filed no response to counsel's motion to withdraw nor has she indicated in
20 any fashion that she intends to proceed with this action. Accordingly, this Court recommends
21 that counsel's motion to withdraw be granted and that plaintiff's complaint, and this action, be
22 dismissed at this time for failure to prosecute. This dismissal should be without prejudice to

01 plaintiff re-filing the action at a later date so long as any such filing precedes expiration of the
02 applicable statute of limitations. A proposed Order accompanies this Report and
03 Recommendation.

04 DATED this 20th day of November, 2013.

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07 Mary Alice Theiler
08 Chief United States Magistrate Judge
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